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AIF 200 w 250-B Excerpt from "The Withdrawal of Japan"
Statement of the Japanese Government in

Rejected
R. 19716

virtue of Paragraph 5 of Article 15 of the Covenant
of the League

Part I.

Japan's co-operation with the League of Nations.

Japan has taken the greatest interest in the development and success of the League from the days of its inception. Her successive governments have extended to it for nearly 14 years their hearty co-operation, and her statesmen have devoted their best efforts to the extension of its influence and the enhancement of its prestige. Japan takes pride in recalling the active participation of her representatives in the work of the League. As an original and permanent Member of the Council, she has had many opportunities of co-operation in its beneficent activities, and of these opportunities she has fully availed herself. She regards the League as a most powerful instrument for the good of humanity, and she is only anxious, in the interest of this great experiment in the establishment of universal peace, that the Members of the League shall fully appreciate the situation in the Far East and deal with it in a practical way rather than by formulae and principles.

The present dispute was first brought by China to the consideration of the Council of the League of Nations under Article 11 of the Covenant in September 1931. In spite of the fact that Japan in this case was obliged to act solely in self-defence against aggression on the part of China, Japan, from the very beginning, has spared no effort in explaining to the League the facts and background of this unfortunate incident, and at the same time she has constantly and without waiting for the

Resolution passed by the Council on September 30, endeavored as far as possible not to aggravate the situation. Japan has also from time to time communicated to the League all information relative to the development of the situation so that the League might be enabled to understand the actual conditions prevailing in the Far East.

Unfortunately, however, the condition of Manchuria showed no immediate improvement in the matter of peace and order owing to the continued activities of Chang Hsuehliang, while the feelings of the Chinese and the Japanese peoples became further strained with the result that there was no possibility of withdrawing the Japanese troops within the railway zone under the then existing circumstance. When the Council met again in October, Japan realized the importance of allaying the excited national feelings of the two peoples as the first essential condition of securing the safety of the lives and property of Japanese subjects and of making possible the withdrawal of the Japanese troops. She was convinced that for this purpose it was necessary for the two parties concerned to pave the way for direct negotiations with the object of restoring normal relations between the two countries. Japan took pains to explain this view to the President and certain Members of the Council, but the proposal to initiate direct negotiations was not accepted.

Moreover, the Council formed a plan to invite a representative of the United States, a non-Member State of the League, to participate in its deliberations as an observer. To this proposition Japan raised an objection, contending that participation

The proceedings of the Council by state not a Member of the League is contrary to its constitution, but the other Members of the Council insisted on regarding the stop as a mere matter of procedure and they invited a United States observer to the Council. Japan remained convinced that this was a matter which concerned the constitution of the League and that the action of the majority constituted a clear case of violation of the Covenant. It became apparent that if the opinion of her fellow members was that such an important matter of substance could be decided by a majority as a mere matter of procedure, she had ratified the Covenant under an error. However, owing to her strong desire to uphold the cause of the League, she continued to participate in the activities of the Council.

The discrepancy between the views of the other Members of the League and those entertained by Japan arose from a lack of understanding of the Far Eastern situation on the part of the League. In her desire to assist the League and to maintain its legitimate influence and usefulness, Japan proposed at the Council meeting held in November, 1931, that the League should dispatch a Commission of Enquiry to China so that its members might be able to understand fully the actual conditions prevailing in that country. This proposal was adopted by the Council in its Resolution of December 10.

The Commission of Enquiry

In March, 1932, by way of Japan and entered Manchoukuo in April. Japan rendered every facility to the Commission in order to assist its investigations. Through the establishment of the new State of Manchoukuo, especial difficulty was encountered in the matter of the entrance of the Chinese Assessor into the territory of that State. Japan therefore exerted her good offices with Manchoukuo in order to smooth over this difficulty and enabled the Commission to carry out its investigations.

The Report of the Commission of Enquiry was made public on October 1, 1932. On account of the brief period allowed for the investigation of the Commission, much remained to be desired for the Report to claim to present a true picture of the actual condition of China. Accordingly, Japan, on November 18 last, handed to the League her observations on the Lytton Report in order to provide it with accurate material for coming to a fair conclusion on the questions involved.

The Lytton Report was the subject of deliberation by the Council from November 21 and by Assembly from December 6, 1932. The Committee of Nineteen appointed by the Assembly without the concurrence of Japan drafted on December 15 a Resolution and a Statement of Reasons concerning the procedure to be followed in performing the duty of conciliation which devolved upon that body in accordance with Paragraph 3 of Article 15 of the Covenant. Japan proposed the deletion from the Draft Resolution of passages regarding the participation of states which were not Members of the League and also the modification of certain points relating to the competence of proposed Committee of Conciliation as well

as the entire deletion of the last Paragraph of the Statement of Reasons which declared in particular that the maintenance and recognition of the present regime in Manchuria could not be considered as solution.

At the same time, considering that Paragraph 3 of Article 15 represents the final resort provided for in the Covenant for conciliatory solution of a dispute. Japan endeavoured to discover some compromise which would enable her to continue her co-operation with the League.

As stated in Part II, M of the Report, the President of the Committee and the Secretary General were authorized to enter into conversations with both the Japanese and Chinese Delegations. The conversations between the Japanese Delegation and the Secretary General were carried on from the first part of January, 1933. As a result of these conversations, a draft was drawn up and it was referred with the knowledge of the President of the Committee to the Japanese Government for their approval. Subsequently, when amendments of the Japanese Government to this draft were communicated to the Committee of Nineteen, it was made known to the Japanese Delegation that the said draft could not be taken up as a basis of further negotiation. This caused a great surprise to the Japanese Government as they had every reason to believe that the President of the Committee who together with the Secretary General was authorized to conduct negotiations with the both Delegations was also fully aware of the conversations and raised no objection to the preparation of the draft.

Though the Committee finally agreed to the deletion from the

Draft Resolution of passages relating to the participation of Non-Member States in the work of the proposed Committee of Conciliation, but proposed that the Japanese Government accept the rest of the text of the Resolution and the Statement of Reasons of December 15 and make a reservation in regard to the last Paragraph of the Statement of Reasons to which Japan had taken objection. The declaration contained in this Paragraph would, as is stated elsewhere in the present statement, not only constitute an action ultra vires on the part of the League but prejudice the whole question and imply a direct attack on the policy followed by the Japanese Government with respect to the existence of Manchoukuo. Furthermore, such an attitude on the part of the League was in no way in accord with the idea of conciliation advocated by the Committee of Nineteen as well as by the Japanese Government. For these reasons, Japan found it impossible to accept the proposal of the Committee.

Upon the refusal of the Japanese Delegation to agree to the Committee's proposal in this regard, the latter set out to the procedure of drafting a Report under Paragraph 4 of Article 15.

However, the Japanese Government refused to give up the hope for conciliation and in their final efforts to achieve this end they agreed to withdraw the various amendments which they had presented when the text of December 15 was communicated to them and consented to accept as the basis of conciliation the principles and conclusions of Chapter 9 of the Lytton Report, in so far as they were applied in a way to "harmonize with the events which have taken place," which phrase is an almost literal

quotation from that Report itself. Further they agreed to the maintenance of the last Paragraph of the President's Declaration (formerly called the Statement of Reasons) on the condition that its wording be modified in such a way that it would not appear to constitute a prejudgment and an attack directed against the policy of the Japanese Government vis-a-vis Manchoukuo.

The Committee of Nineteen found this final proposal likewise unacceptable. Thus the Committee rejected all the Japanese proposals and came to the conclusion that conciliation under Paragraph 3 was impossible. The Committee forthwith proceeded with the drafting of a report under Paragraph 4 of Article 15 of the Covenant. The Draft Report thus prepared was submitted to the Assembly on February 21 and, in spite of the negative vote on the part of Japan, it was adopted by the Assembly on February 24.

Part II

Errors in the Report concerning the chief characteristics of the dispute.

The Report sets forth in Part III what are termed the "chief characteristics of the dispute". It is most regrettable that this part of the Report is substantially based upon the Report of the Commission of Enquiry. As stated in that Report, "the issues involved in this conflict are not as simple as they are often represented to be. They are, on the contrary, exceedingly complicated and only an intimate knowledge of all the facts as well as of their historical background should entitle anyone to express a definite opinion upon them". It must be remembered that the Commission of Enquiry spent only six weeks in Manchuria and fifteen in China, most of which was passed in Peiping and their trip covered only a very

limited area of China a few open ports where the real condition of China could not have thoroughly been studied. In these circumstances it was impossible for them to acquire "an intimate knowledge of all the facts as well as their historical background." Hence the document is not as complete and impartial as it should be. It is quite natural that there should be not a few errors in the Report of the Assembly which was drafted upon the basis of the Lytton Report. These errors might have been avoided if the Committee of Nineteen had taken into due consideration the Observations of the Japanese Government presented to the Council on November 18, 1932. At any rate, it must be said that the Lytton Report, admirable and praiseworthy as it is, is not a document which one can look upon as containing all the facts as well as all the historical background upon which alone final judgment should be based. The errors in the Report of the Assembly are numerous. Let only the most salient be cited:

(1) The Report appears to cling in Part III to the fiction that China exists today as a single organized state to be dealt with on the same footing as any country in Europe or America. The fiction happens to be merely a convenient formula which embodies in a concise form the generous aspirations of the Powers for the recovery of China as a unified and orderly state. Japan has worked hard to act upon that formula during these many years, and she is prepared to continue on the same lines in cases where ordinary matters alone are concerned. But where her vital necessities come into play as in Manchuria, she is forced to reconsider that fiction and to ask herself what are the actual facts and who are the actual

rulers. States which are Members of the League of Nations and have little interests in China can afford to preserve the convenient fiction intact without serious difficulty. But Japan in a totally different position economically and strategically is compelled, however, reluctantly to examine and set a limit to the fiction and to direct her course according to realities.

It is the view of the Japanese Government that the erstwhile Chinese state ceased to rule in Manchuria when "the fall of the United Republic after the death of Yuan Shi-kai in 1915 signaled the break-up of all unity of government in China". (Observations of the Japanese Government, page 15).

As a matter of fact, none of the Governments including the Nanking Government maintains authority over China save over the limited areas which it actually controls. That is why the Japanese Government in their Observations insist that Manchuria is not naturally and necessarily an integral part of China. It will then be asked, as it has been asked, --- "why did Japan invoke the Nanking Government at the outset of the Manchurian incident? Why did Japan negotiate with Peking in 1915? Why did she declare Manchuria to be a part of China in 1922?" The answer is that Japan clung until the last moment to the fiction of Manchuria being an integral part of China. She had excellent opportunities of departing from it, as she had wished, afforded by the chaotic state of the country. She steadily refrained from availing herself of the opportunities. But when chaos came to threaten her whole position in Manchuria, it became necessary for her to take measures to protect her various interests and important rights.

It should be observed at this point that Japan is not setting a precedent for defying the existence of a neighbour state merely because it is weak or disturbed by internal disruption. It is needless to say that so long as the government of a state which has actually ruled the whole area maintains its authority in any part of its territory, so long does the state continue to subsist and to remain inviolable. The peculiar circumstances of China do not reside in the fact that its common government is weak or distracted by disruption. They reside in the unique fact that no authority which now exists has ever been a common government of China at all and none therefore has title to rule the entire country.

The League of Nations should not forget that fact overrides form and that a state must possess a single and continuous government.

(2) The Report, in agreeing that the Chinese boycott against Japan imposed after the September 18 Incident falls within the province of retaliatory measures, sows the seeds of incalculable future trouble for each and every Power interested in China. All the Major Powers conduct military operations in China under certain circumstances and maintain armed forces in Chinese territory for that specific purpose. If the adoption by the Powers of any forcible measure for the protection of their rights and interests is on each occasion to be the subject of a retaliatory boycott, the application of force will of necessity be extended without limit.

By their acceptance of the Resolutions of September 30 and of December 10, 1931, China and Japan agreed that they should take the necessary measures to prevent any aggravation of the situation. The Japanese Government desire to call the attention of the League

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to the fact that it was the conspicuous failure on the part of China to take such proper measures that led to the regrettable Shanghai Incident. It should also be added that in any discussion of the boycott the fact of anti-foreign education in schools and the "revolutionary foreign policy" (admitted by the Nanking Government) should not be left out of consideration, as these three subjects are inseparably bound together.

(3) The Report quotes and adopts from the Lytton Report the reference to the possibility of an arbitral settlement of the Sino-Japanese dispute. But arbitration presupposes a normal organized state with a government supreme throughout its territory and capable of enforcing an award. China, as has been stated above, has not for years been in such a state at any rate so far as to render it possible to arbitrate with her in vital matters concerning Manchuria. With whom would the arbitration have proceeded? With Chang Hsueh-liang whom the League does not recognize? Or with the Nanking Government whose authority (as the Report of the Commission of Enquiry showed) he did not obey? Japan with her vital interests at stake could not and cannot possibly resort to arbitration in such a matter with such a country as China.

(4) The Report again quotes and adopts the refusal of the Commission of Enquiry to recognize as measures of self-defence the military operations of the Japanese army on the night of September 18, although it does not exclude the possibility that the Japanese officers on the spot might have thought they were acting in self-defence. This is simply another case of a facile and uncritical acceptance of the opinions of the Commission of Enquiry, utterly

ignoring the emphatic contradiction contained in the Observations of the Japanese Government. On what grounds can the League or any other third party pronounce a verdict on the case contrary to the judgement of the Japanese officers on the spot? The right of self-defence is one of these inalienable rights of a state which may be duly exercised in certain specific circumstances, and the question of on what occasion and to what extent that right should be exercised is a matter which can be determined only by the state concerned. In this connection the Japanese Government in their Observations have referred to the reservations made by both France and the United States in concluding the Pact of Paris; a reference which the Assembly found it possible to pass over in silence.

The Report in stating that the operations of the Japanese army, viewed as a whole as they developed through the entire period of the conflict, cannot be regarded as an act of self-defence, fails to take into cognizance the tension which existed, the overwhelming forces by which the Japanese were faced and the utter uncertainty which prevailed as to the probable action of these forces. Above all, it fails to take into account the vital rights and interests of Japan in Manchuria, which are not confined to the leased territory and the railways, but involve mining and forestry, consular police and consular jurisdiction, residence and trade throughout the entire region. When these rights and interests are threatened, the measures for their protection may have to be extended throughout Manchuria. But never have Japanese military operations exceeded the bounds of necessity for self-protection.

In order that it may not be supposed to have been passed over sub silentio, the Japanese Government take this opportunity of explicitly denying the specific conclusion reached in the Report that no question can arise of Chinese responsibility for the development of events since September 18, 1931, and that the use of boycotts by China subsequent to that date falls under the category of reprisals. Even if the theory that the Japanese military action did not constitute lawful self-defence should be accepted, that clearly would not invest the Chinese with an unlimited license to behave as they chose to, and to enter upon a career of unrestricted violence and wrong. Much more is this the case if, as Japan contend the actions of her troops were urgently called for by the necessities of self-defence. How can reprisals possibly be exercised against a lawful act? The proper reply to acts of self-defence is negotiation and explanation, and not reprisals which generally lead to war. Had the United States exercised reprisals in the Carolina case, war with England must have ensued. Again, it must be noted that the Resolution of September 30 precludes either party from aggravating the situation; and it would seem strange to hold that this meant that China might take steps which would certainly aggravate it, leaving Japan alone responsible for any untoward development.

What appears to be a most curious statement is found in Part III of the Report which reads: "adoption of measures of self-defence does not exempt a state from complying with the provisions of Article 12 of the Covenant".

As has already been observed by the Japanese Government, the right of self-defence is exercised upon the occasion "of an urgent"

---to quote Webster's definition---"and overwhelming necessity allowing no choice of means and no instant for deliberation." To require the observance upon such an occasion of Article 12 of the Covenant, which stipulates that the right of self-defence may be exercised three months after the award by the arbitrators or the judicial decision or the Report by the Council of the League has been made public is to deny the right of self-defence itself.

(5) The Report says that the declaration of independence by Manchukuo was not spontaneous. Since the statement is based upon no fresh investigation conducted at a later date, it may be readily gathered that the Report has here again adopted the erroneous conclusions of the Commission of Enquiry contained in Chapter VI of the latter's Report, the baselessness of which has been fully exposed in the observations of the Japanese Government.

It must strike an impartial observer as extraordinary that the Assembly repeats this finding of the Commission of Enquiry in face of the emphatic denials of Japan. There are two factors which may partly account for this. First, the movement during the tyrannous regime of the Changs for the keeping of Manchuria aloof from all participation in the affairs of China proper was subterranean, and had no repercussions in the outside world; and the authors of the Report may therefore have been sceptical of its existence. Secondly, they appear to be misled by giving implicit policy" of Japan, and her supposed plan to seek a political solution of the Manchurian issue as a step towards the execution of that policy. It is unnecessary to repeat that the Japanese "continental policy" is a mere Chinese fabrication, and that Japan harbours no territorial designs in any part of the world. But all this, though it

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may explain the rejection by the Assembly of the uncompromising denial made by Japan, can hardly be thought to excuse it.

The simple fact is that, as has so often been explained on the disappearance of all the administrative organisations, such as they were, which had existed under the Changs, spontaneous local organisations naturally sprung up, and the Japanese troops which were responsible for the maintenance of order necessarily co-operated with them. It was a proper and necessary step, and in the circumstances an unavoidable one. Such was the whole significance of the presence of Japanese troops, and such was the sole aim of the activities of Japanese civil and military officers. Unfortunately the Commission of Enquiry, and consequently the Assembly, in their implicit reliance on the assumption that there had never existed any independence movement in Manchuria, have been obliged to attribute to the activities of Japanese civil and military officers the independence which was actually proclaimed, ---and to do so upon no solid grounds whatever.

As to the assertion that the people of Manchuria are hostile to the new state, again there is no valid evidence beyond fifteen hundred letters of dubious origin received by the Commission of Enquiry. The Japanese Government desire to point out the fact that within less than a year since its foundation, Manchoukuo has achieved a marked and healthy progress in the restoration of law and order, and that criticism or complaint has been heard of regarding its conduct of affairs, whether domestic or foreign.

Regardless of the attitude of the Assembly to the new state of Manchoukuo, she has gone forward steadily on the road of progress. Freed from the yoke of misgovernment under the tyrannous rule of

the Changs, the thirty million inhabitants of Manchuria/Mongols and Chinese all alike, have already begun to reap the benefits of their labours which were denied them in former days. Throughout most of the country banditry has been suppressed. These hostile elements, largely composed of the remnants of Chang Hsueh-liang's troops and receiving not inconsiderable assistance from their former war lord, had constituted an obstacle to the establishment of peace throughout the territory. Thanks however to the combined efforts of the Japanese and Manchukuo forces, they have been practically cleared out of the Provinces of Fongtien, Kirin, and Heilungkang, and the security of life and property has been reestablished in those Provinces. It is only in the Province of Jehol that the organized opposition still continues.

In the domain of finance, something entirely unknown in the history of China has been realized in Manchukuo. Though the State is still in its infancy, a sound budgetary system has been initiated, and is being carried out with utmost satisfaction. The establishment of the central bank, which is functioning on the same lines as those of the advanced countries of the world, has contributed much to the stabilization of state finances and to the economic and industrial development of the country. A similar progress has also been noted in the domain of railway administration, commerce, and industry, and with abundant resources with which she is endowed, there is every prospect of this country achieving, in days to come, a still greater progress along these lines to the benefit of her inhabitants and foreigners.

All this could not have been the case had the population of the country been hostile or even sullenly submissive. It is to be

regretted therefore that the Assembly should have, without referring to the Observations submitted by Japan, accepted the assumption of the Commission of Enquiry, which, here again, has no foundation in fact.

(6) The Report dwells upon the need of international co-operation in the reconstruction of China, and mentions the provision of technical assistance as one form of that international co-operation. Obviously, the reconstruction of China cannot be accomplished by any such superficial and inadequate means. It could only be rendered possible by some forceful international intervention of such a nature as would at once prove incompatible with the stipulations of the Nine Power Treaty regarding the administrative integrity and political independence of China. That is another proof that it is necessary to allow ample elasticity by taking due account of changing conditions in the application of the Nine Power Treaty and the Covenant of the League as far as China is concerned.

Part III.

Impracticabilities of the Recommendations.

(1) Japan recognizes that the Covenant of the League of Nations and the Pact of Paris constitute the basic principles of the settlement of international disputes in so far as international relations in general are concerned. But a certain degree of elasticity must be allowed in the application of these principles to such special and entirely abnormal conditions as prevail in China.

(2) As to the proposal for the withdrawal of troops, contained in Section II, (1), (A) of Part IV of the Report, it is to be noted that the presence of Japanese troops outside the Railway Zone, so far from being incompatible with legal principles, has from the very beginning been due entirely to the sheer necessities

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of legal self-defence, and is in no way derogatory to the accepted principles regarding the settlement of international disputes. It is further to be noted that these Japanese troops are now responsible, in accordance with the Japan-Manchoukuo Protocol, for the maintenance of peace and order in Manchoukuo. It is true that by the resolutions of September 30 and of December 10, 1931, Japan undertook to withdraw her troops within the Railway Zone in so far as the safety of the lives and property of her subjects was assured, but the condition attaching to that undertaking, namely the assurance of safety of life and property, has never been satisfied; and the undertaking itself has now become inapplicable on account of the independence of Manchoukuo and the conclusion of the agreements embodied in the Protocol signed on September 15 last. Should the Japanese troops be withdrawn within the Railway Zone in accordance with the recommendation contained in the Report, it would be inevitable that unrest and disturbances would ensue in the evacuated territory. Those Members of the League that have but little direct interest in the affairs of the Far East can afford to maintain that the upholding of abstract formulae is more important than the maintenance of the peace in this part of the world. But Japan, vitally concerned in the maintenance of peace and order in Manchuria, cannot tolerate that region again be plunged into disorder. It cannot be supposed that a gendarmerie system as proposed by the Lytton Report would remove all apprehensions on this score. There is no precedent in the history of the world in which the security of such a vast territory was secured by gendarmerie. The proposition is absurd and cannot be put into practice. If the Japanese troops were withdrawn, the country would be quickly overrun by bandits and by

Chang Hsueh-liang's troops resulting in anarchy and disorder.

(3) As to Section 2, (1) of Part IV of the Report where it is stated that the sovereignty over Manchuria belongs to China, it has to be noted that at any rate since the year 1916 Manchuria has never been subject to the authority of China and that, in the final analysis, the present difficulty has been caused by the supposition that the sovereignty of China actually extended and extends to that region. It is entirely superfluous to say that the enforcement of this fiction will never ensure the protection of Japan's rights and interests and the maintenance of peace in the Far East.

Inasmuch as the Report repudiates the restoration of the old régime as leading merely to a repetition of disorder and friction, so any return to the fiction in question must equally be repudiated. Nor is it possible for Japan to admit any policy which is incompatible with the simple fact of the existence of the State of Manchukuo and the provisions of the Japan-Manchukuo Protocol.

(4) With regard to the ten principles set out in the Lytton Report and cited in Section I of Part IV of the Report, apart from the observations made above, the Japanese Government deem it sufficient to quote the following passages from their Observations presented to the League in November last:--

"Certain of these principles to which the Japanese Government have no fundamental objection have already found concrete application in the Protocol signed by Japan and Manchukuo. But, in any view of the matter, it must evidently be impossible, so long as the anarchical state of things in China persists, to arrive at a satisfactory solution of the questions at issue on the basis of the first nine of these principles, especially principles 4-9 inclusive. As

is sustained in Principle 10, these nine principles cannot be practically applied 'without a strong central government in China'."

(5) In Section 2, (3) of Part IV of the Report, the Assembly contemplates the establishment of a committee to assist in the negotiations which are to be opened between the two parties in accordance with the method specified in the Report. This, however, is directly contrary to the insistence of Japan not to allow any third party to intervene in the Manchurian problem, and Japan find it absolutely impossible to accept such a proposal. As, moreover, the Recommendations referred to as (1), (A) and (1), (B) of Section 2, Part IV of the Report, must be dismissed as unpractical, and those made under (2) of the said Section 2 are equally inapplicable in the present state of China, there would seem to be no scope left for the activities of the proposed Committee.

(6) The Report states in effect in Section 3 of Part IV that the maintenance and recognition of the existing regime in Manchuria is no solution and that the Members of the League should, after having adopted the Report, abstain from recognizing the present régime either de jure or de facto. Further it expresses the hope that the states non-Members of the League who are signatories of the Pact of Paris and the Nine Power Treaty will associate themselves with the view set forth in the Report in this regard. The Japanese Government cannot but consider that the Assembly, in proposing in such a manner to influence or to bind, if only morally, both Member and non-Member states in the matter of recognizing or not recognizing another state is exceeding its powers conferred upon it by Article 15 of the Covenant. In any case, in making a proposition of this nature the League of Nations whose primary duty is the preservation

Of peace throughout the world could not surely contribute to the maintenance of peace and security not only in Manchoukue, but also in the Far East. Such an action on the part of the League would prove to be an obstacle to the good understanding and friendly relations between nations upon which peace depends.

Part IV.

Conclusion.

The Japanese Government are fully convinced that the action of the Japanese army on the night of September 18, 1931, and thereafter has never exceeded the limits appropriate to measures of self-defence, and that Manchoukue has been founded by the spontaneous will of the people of Manchuria. Accordingly, they consider that neither the action of the Japanese army in Manchuria, nor the conclusion of the Japan-Manchoukue Protocol is in violation of the Covenant of the League of Nations, the Nine Power Treaty, the Pact of Paris, or any other international treaties. The Japanese Government maintain that in view of the quite abnormal condition of China, where no existing authority has ever ruled the entire country, and particularly in view of the unparalleled complexity and peculiarity of the Manchuria problem, and also having regard to antiforeign character of the policy of the National Government it is impossible to think of applying to the present dispute the general formulae applicable to an ordinary international question; and they maintain moreover that neither any procedure which may be adopted for such an exceptional case, nor any solution thereby attained, can ever establish a precedent for ordinary cases of international dispute. Were it possible to apply ordinary formulae, the plans adumbrated by the Assembly would themselves be ruled out of consideration as interferences with what the

Assembly regards as Chinese sovereign rights.

Unfortunately, the Assembly, through the refusal of its Member to face facts, and their uncritical acceptance of the Report of the Commission of Enquiry, has only indulged in academic and inadequate principles. The Assembly stands, if it may so be said, for mere formulae; Japan for solid realities. Japan takes her stand on established principles; the Assembly on preconceived hypotheses. It results from the refusal of the Assembly to go beyond the Lytton Report. As pointed out in the preceding part of the present statement, the new State of Manchukuo has made rapid progress. Peace and order are superseding banditry. Commerce and industry have responded to the improved situation, to the benefit of foreigners and the people of Manchukuo alike. This is a concrete proof of the truth of the Japanese contention that the recognition and encouragement of the Manchurian State is the only road to a satisfactory solution of the Manchurian question and to the maintenance of a lasting peace in the Orient.

On the other hand, it appears impossible to look for any improvement in the Chinese situation in the near future, and China is likely to remain a chronic anxiety to the rest of the world. Communism has already invaded China, and the alarming extent and success of the invasion is far from seldom realized. A communized China would constitute a problem for Europe and America beside which other questions would pale into insignificance. But a Manchukuo free from Chinese connection constitutes a barrier to the communist danger in the Far East. Its value ought surely to be apparent to every statesman. It is earnestly hoped that the League of Nations will soon be led to change its attitude, to discard reliance on

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and inapplicable doctrine and to respect and recognize the forces that are actually rendering possible the maintenance of peace in the various regions of the world. The Covenant of the League of Nations itself provides in Article 21 for the due recognition of regional understandings, and the Japan-Manchukuo Protocol of September 15, 1932, falls incontestably within the category of understandings such as these, as the special interests of Japan in Manchuria have again and again been recognized. At the same time, Japan takes this opportunity of repeating her disclaimer of all desire for territorial gains or commercial advantages.

February 25, 1933.

Ref.

國際聯盟規約第十五條第五項に依る

日本 政府 陳 述 書

第一部 日本の國際聯盟との協力

日本は聯盟の發達及成功に對し其の創始以來多大の關心を待ち來れり、日本政府は聯盟に對し殆ど十四年に亘り滿腔の協力を與へ、日本の爲政者は聯盟の勢力の擴大及權威の増進の爲最善の努力を爲せり。日本は其の代表が聯盟の事業に對し參與活動せることを維持の念を以て回想す。日本は原聯盟國及常任連任國として聯盟の有益なる諸活動に協力を爲す幾多の機會を有し且此の機會を充分に利用せり。日本は聯盟を人類の福に對する最も有力なる機關と看做すものにして、此の世界平和確立に對する大專業の爲に聯盟國が極東の事能を充分に會得し且方式及原則に拘泥することなく實際的方法に依り事能を處理せんことを庶幾するのみなり。

本紛争は當初一九三一年九月支那の要求に依り規約第十一條に基き國

際聯盟國理事會の案議に附せられたり。日本は本事件に於て支那側の攻撃に對する自衛の爲に行動を餘蘊なくせしめられたるに過ぎざるにも拘らず、當初より此の不幸なる事件の真相及背景に付能ふ限り聯盟に對し説明を惜まざりしと同時に、九月三十日の理事會の決議を俟つことなくして當に出來得る限り事態擴大を防止するに努め來れり。日本は又事態の進展に關する一切の情報を聯盟に通告し聯盟をして事態の實情を了解するに便ならしめたり。

然るに滿洲に於ける治安狀況は張學良の活動繼續の爲不幸にして容易に改善を見ず、一方日支兩國民間の感情更に惡化するに至り、其の結果當時の狀況に於て附屬地内に日本軍隊を撤收することは到底不可能なりき。十月理事會再開の際日本は日本臣民の生命財産の安全の確保を圖り且日本軍隊の撤收を可能ならしむるの第一根本條件として、先づ兩國民間の緊張を緩和すること重要なるを認め之が爲兩國平常關係の回復を目的とする直接交渉の途を開くことを必要なりと信じ、右見解を理事會議長及若干國理事に説明するに努めたるも直接交渉開始の提案は受諾せられ

ざりき。

加之理事會は非聯盟國たる米國の代表を招請しオプザーバーとして其の臨時に參加せしむるの案を立てたり。日本は非聯盟國を理事會の議事に參加せしむるは聯盟の基礎法に反すと爲し右案に反對せるも、他の理事會は之を以て置なる三事項なりと主張し、米國のオプザーバーを理事會に招請せり。日本は右が聯盟基礎法上の問題にして多數決に依るべき月かに規約違反なることと引置き信ぜり。日本の同様たる各理事會が斯の如き事實上の重要事項を處する手續を以て多數決に依り決定し得べきものなりとの見解を執するに於ては、日本としては理解に差きて規約を批准したるものなること明かななり。然れども日本は尙聯盟會議の希望より引置き理事會の行動に參與せり。

聯盟各國と我方との見解の懸隔は聯盟が公正の事柄に對する理解を如何せる爲生にたるものなり、日本は聯盟を援助し且其の合法的勢力及費用を維持せんとの希望より聯盟各國が支那の現狀を充分了解し得る機一九三一年十一月の理事會に於て文部に訓令委員會の派遣方を提議せり、

右決議は十二月十日の選挙会決議に依り採擇せられたり。リットン勅を首とする調査委員会は日本を逐て一九三二年三月支那に到着し同四月満洲に入り、日本は同委員会に對し其の調査進捗の爲め制限便宜を供與せり、新國家滿洲國の成立に依り時に支那參與員の入滿に付困難ありたり、仍て日本は右國難除去の爲滿洲國との間に餘施の勞を費り調査委員をして其の調査を遂行することを促しめたり。

調査委員會議告書は客年十月一日公表せられたり、委員会の調査期間短期なりし爲同報告書を以て支那の現状の眞實を導ふるに足るものと爲し得ざるのみ多かりき、仍て日本は客年十一月十八日リットン報告書に對する其の「意見書」を聲明に提出し、聯盟が本紛争に對し公平なる結果に到着し得るまで正確なる材料を供給せり。

リットン報告書は一九三二年十一月二十一日よりの選挙会及十二月六日よりの選挙に於ける選挙の題目となり、選挙会が日本の同意なく任命せる十九人委員會は十二月十五日規約第十五條第三項に依り選挙の職務たる調停手続に關する決議及理由書を報告せり、日本は右決議案中非難

盟國参加に關する部分の創設及和協委員會の權限中和協達成事業を遲滯せしむべき若干點の修正並に滿洲に於ける理政權の維持及承認を解決と認め難き旨を條に記載せる理由書の最終項全部の創設を要求せり。

一方第十五條第三項が規約上紛争の和協的解決に對する最後の手續たるに候み、日本は盟國との協力を持續し得べき妥協點を發見するに努めたり。

報告書第二部（ワ）に記述せられたる如く十九人委員會委員長及事務委員長は日支兩國代表と意見の交換を爲すべき權限を與へられ、日本代表事務委員長との會議は一九三三年一月初旬より舉行せられたり。此等會議の結果一草案作成せられ、右草案は十九人委員會委員長の下に日本政府の承認を求むる爲同政府に交付せられ、亦て右草案に對する日本政府の意見十九人委員會に送附せられたるが、日本代表は右草案は之を將來の交渉の基礎とし難き旨の通知に接したり。然るに事務委員長と共に西國代表と交渉を爲すの權限を與へられたる十九人委員會委員長が、前記會議を充分告知し且右草案の作成に反對せざりしもの、之を信ぜべき充分の理由あり。

りしを以て前記の経緯は日本政府を感服せしめたり。

委員会は遂に決議案中より、日露協定の和協委員の建議に於ける部分の削減に同意せるも、日本政府に於て十二月十五日の決議及理由書案文の詞句の部分を経て受諾し、且日本に於て其の反對せる理由中、最終項に對し留保を爲さんことを一察せり。右最終項に記述せられたる宣言は本陳述書中に述ぶる所あるが如く、協定の期限を過行爲を構成するのみならず問題全般に對し、協定を與へ且、協定の締結に對し日本政府の執れる政策に對する直接の攻撃を意味するものなり、加之、協定の斯の如き協定は十九日協定に日本協定の協定する協定の協定に合致せざるものなり、日本政府は此等の理由に基き委員の建議を支持すること能はざりき。

日本代表が右の理由に對する委員の建議を拒否するや委員は第十五條第四項に基き報告書案起草の手続に着手せり。

然れども日本政府は和協に對する建議を捨てず、之を達成する爲の努力として十二月十五日の案文の報告を受けたる協定案したる協定

正の範囲に同意し、日リットン報告書第九章の原則に於て之を生せる出来事に調和する如き方針に依り適用せらるべきに於て之を和協の基礎として受諾すべきことを承認せり（右引用の句は報告書より略し其の修補用せり）。更に日本政府は懸念宣明即ち元の要中の最終の要として右が何等かの所又は日本の對露方針に對する攻撃とならざる其の諸句を要することを條件とし之が在野に同意せり。

十九委員は右最終案を同格受諾し得ずと爲せり、委員は斯の如く一切の日本提案を拒否し且第三項に依る和協は不可能なりとの結論に達したるが對中報告第十五條第四項の決定せる報告書の紀章を添へたり。斯して準備せられたる報告書案は二月二十一日の報告に提出せられ二月二十四日日本の反響投票に付らざるに於て採擇せられたり。

第二部 紛争の主要事實に於ける報告書の記述

報告書は第三部に於て「紛争の主要事實」とするものを記述せり、報告書の該部分が多分に調査委員の報告書を基礎とせるは遺憾なり。右報告書にあるが如く「本紛争に包含せらるる紛争問題は往往和せらるるが

たゞく簡單なるものに非ず、反對此等問題は如何に複雑なるものにして一切の事實及其の歴史的背景に關する徹底せる知識あるもののみに對し確定的意見を表示し得る資格ありと謂ふべきなり」。斯本委員は滿洲に於ては六週調査に於ては十五週調査を費したるに過ぎず、而も支那に於ては其の大部分は北京に在り且其の旅行は支那の僅か一小局部に於てのみ調査するを得ざる若干の問題に關ししことを想起するを要す。右状況の下に委員が「一切の事實及其の歴史的背景に關する徹底せる知識」を期待することは不可能なり。

故に報告書は完全且公平なるものに非ず、リットン報告書に基き一貫せられたる委員の報告書中に如何に擧げらるは極めて自然なり。若し十九委員にして一九三二年十一月十八日調査會に提出せられたる日本政府意見書を充分考慮に入れしに於ては此等問題は遠く進められしなるべし。何れにせよリットン報告書は假令賞讃すべきものとするも最終の決定の唯一の基礎たるべき一切の事實及其の歴史的背景を包摂する文書に非ず。斯本の報告書中の誤謬は多々あるは最も著なる點は左の如し。

一、報告書は第三部に於て支那が現在尙欧米諸國と同等に取扱はるべき
 單一組織的國家なりとの提議を固執せんとし居るやに認めらる、然る
 に右提議は秩序ある統一國家としての支那の復活に對する列國の要請
 を簡單に表現する便宜的一形式なりしなり。日本は多年に亘り右提
 議に従ひて行爲せんと終め來り、今茲も單に非常の事項のみに同意あ
 る場合に於ては從來同様の行爲方針を維持するの用意あるものなり。
 然れども滿洲に於ける如く日本の死活的必要が同類となる場合に於て
 は日本は右の提議に容再考し現實の事實の如何たるか及現實の支那者の
 何人たるかを自問せざるを得ず、支那に利害關係甚き國際聯盟體は
 左したる困難なくして右便宜上の提議を其の締結するを得べけんも
 經濟上及軍事上全然別個の地位に在る日本は敢て欲する所に非ざるも
 右提議を検討し之が限界を設け且現實に即して其の進路を定むるを餘
 儀なくせしめらる。

日本は「袁世凱の死後に於ける統一共和國の浮落が支那に於ける政
 治的統一の障礙を示し」（「日本政府意見書」第一九頁）但し

本協會發行の事に依るゝせる時期に於て舊支那國は滿洲を支配せざるに至れりとの見解を有するものなり、實際に於て南京政府を含む支那の如何なる政府と雖も現實其の支配下に在る局小地境以外に權力を維持するものなし。是帝國政府が其の意見中に滿洲を以て自然且必然に支那の一部に非ずと主張せる所以なり。

然らば何故に日本は滿洲事件發生當初南京政府を相手とせるや、何故に一九一五年北京政府と商議せるや又何故に一九二二年に滿洲を以て支那の一部なりと聲明したるや等の質問發せられ得べく且現に發せられたり、之が回答は即ち日本としては取後の瞬間迄滿洲は支那の一部なりとの提議を保持せんと努め來れりと明ふに在り。日本は支那の混地狀態の結果從來若し欲するに於ては右提議より離脱すべき幾多の好機會を有したるも常に之を利用するを避けたり。然るに滿洲に於ける日本の全地位に對し脅威を與ふる混地狀態發生するに至り、日本は其の各種の利益及重要なる權利を保護すべき手段を執るの已むを得ざるに至れり。

茲に日本は其の一隣邦が單に弱かなるか又は内部的分裂に悩まざる

ことを理由として該隣邦の存在を相同するの先例を作らんとしつつあるに非ざることには注意し置くの要あり。凡そ國家は其の全領域を現實に支配し來れる政府が其の領域の如何なる地方たるを問はず一部に於て其の權力を維持する限り國家として存続し且不可侵なることは謂ふを俟たず、支那の特殊狀態は其の共通なる政府が弱勢なりとか又は内部的分裂に陥まざるるとかの事實に存するに非ずして、現存する如何なる政府と雖も實に支那全境に對する政府たりしことなく、從て全國を支配するの權利を有せざるの類例なき事實に存するものなり。

國際聯盟は事實は形式よりも權威あり、又國家は單一且組織的の政府を有せざるべからざることを忘るべからず。

二、報告書は九月十八日事件以後に於ける支那の對日ポイコットは復仇手段の範圍に屬することに同意し居れる處、右は支那に利害關係を有する各國に對し將來不測の紛糾の種子を毒くものなり。主要列國の總ては或種の狀況の下に支那に於て軍事行動に出で且該特殊目的の爲支那領域内に武装せる兵力を維持す、若し右列國が其の利益保護の爲強力手段を執

るの都度復讐的ボイコットを以て對抗せらるるものとせば強力手段の適用は無制限に擴大せらるるに至るべきこと必然なり。

日本兩國は一九三一年九月三十日及十二月十日の決議案に依り何れも事態の擴大を防止する爲必要なる措置に出づべきことを約せり。日本政府は支那側に於て右の如き適當なる措置に出でざりし結果遂に不幸なる上海事件の發生を見るに至れ。事實に付聯盟の注意を喚起せんと欲す、尙ボイコットを驗ずるに當りては之と不可分の關係に在る諸學校に於ける排外教育及南京政府の容認せ。『革命外交政策』をも併せ、右三者を一括考慮するを要することを附言するの要あり。

三、報告書は已支紛争が仲裁裁判に依り解決し得べかりしことに關するリットン報告書の規定を引用し且之を引用し居れり、然れども仲裁裁判は其の全領土を通じて至上の權力を有し且判決を履行する能力ある政府を有する正當の組織的國家を前提とす。既述の如く支那は多年に亘り斯る國家の態を成さず、少くとも滿洲に關する樞要なる問題に付仲裁裁判の相手と爲し得るが如き國家に非ざりき、何人を相手として仲裁裁判手續

遂行せしめ待たるべきや、聯盟の承認せざる張學良を相手とし待べきや又は張學良に於て其の權力に服従せざりし（調査委員會報告書も之を認めたり）南京政府を相手として右の如き問題を仲裁裁判に附託すること殆ど不可能なり。

四、報告書は復た九月十八日の夜現地に在りたる日本の將校が自衛の爲行動しつゝありと思惟したるなるべしとの可能性は之を排除せざるも、同夜の日本軍隊の軍事行動は之を正當なる自衛手段と認むるを得ずとの調査委員會の認定を引用し且之を採用せり。右は帝國政府の意見書に於て強調せる反對主張を全く無視し調査委員會の見解を何等の權衡を加ふることなく容易に受け容れたる他の一例に外ならず。如何なる理由に依り聯盟又は第三者が本件に關し現地に於ける日本將校の判斷に反する制定を下し得べきや、蓋し自衛權は若干特定の場合に當然に行使せられ得べき國家の奪ふべからざる一權利なり、而して自衛權が如何なる場合且如何なる範圍に於て行使せらるべきやの問題は當該國のみが決定すべき事項なり。右に關し帝國政府は其の意見書中に米佛

兩國が巴里條約締結の際爲したる留保に言及せり、然るに總會は之を暗黙裡に葬り去り得るものとせり。

報告書は紛争の全期間を通じて進展せる日本の軍事行動も全體としては之を自衛の行動と認むるを得すと述べ、當時存在せる緊張、日本側の直面せる壓倒的兵力及此等兵力の執る處ある行動を全然豫測し得ざりしことに對する認識を缺き居れり。報告書は殊に滿洲に於ける日本の重大なる權益を考慮に入れ居らざる處、亦日本の權益は租借地及附鐵道のみならず滿洲全地域に亘る鑛山、森林、領事館警衛及領事裁判權、居住營業の權利をも含むものなり。此等權益が脅威せらるるときは其の保護手段は滿洲全地域に亘り之を執り得べし、然れども日本の軍事行動は未だ會て自衛の爲必要なる限度を超えたることなし。

一九三一年九月十八日以降の諸事件の發展に關し支那側の責任問題は起り得ず且同日以後に於ける支那側のボイコット使用は復仇の部類に入るものなりとの報告書の明白なる結論を、日本政府が默過したりと推定せられざる様日本政府は此の機會を捉へ該結論を明かに否認す

るものなり。假に日本の軍事行動が合法的目衛行爲を構成せざりしとの假説が受諾せらるるとするも、明かに右は支那側に對し其の欲するが儘に行動し且恣なる暴行不正を始むることを無制限に許容するものに非ざるべし、若し日本が主張する如く日本軍の行動が自衛の必要に依り緊切に要求せられたるものなりとせば尙更然り、又如何にして合法的なる行爲に對して復仇を行ふことを得べきや、自衛手段に對する正當なる應報は交渉及説明に在りて戰爭を誘致すべき復仇に在らず、米國がカロライン羣事件に於て復仇を行ひたらんには英米戰爭起りたるなるべし。一九三一年九月の決議も亦當事國の双方に對し事態を擴大すること確實なる措置に出づることを支那に對し認むる一方に於て、日本のみが如何なる不詳事件の發展に對しても責任を負ふべきことを意味せるものと爲すが如きは奇異なる主張と言ふべし。

極めて奇怪なる記述と認むべきもの報告書第三部中に在り、即ち累より一國は自衛手段に訴ふるに當り規約第十二條の規定を遵守するの義務を免除せらるるものに非ず」となせる點之なり。

事を存したるやも知れず、第二に報告書の作成者は日本の所謂「大陸政策」なる空説及右政策實行の一手致して滿洲問題の政治的解決を計らんとする日本の計畫なるものを宣傳したる爲惑はされたるものゝ如し。

然るに「日本の大陸政策」なるものが盟なる支那側の利益に依り、日本が世界の如何なる部分に對しても何等領土的野心を包蔵せざるは茲に專断するの事なし、右は日本の所乎たる否認を機會が拒否したる理由となるやも知れざるも右拒否の責任を免れしむるものに非ず。

事實は簡單にして露々説明せられたる如く、張家の下に在りたる全行政機關は増強自營的地方團體が自然に成立し、治安維持に任ぜる日本軍は必然的に之を協力せるものなり。右は公堂且必要にして當時の情勢に於ては避け難き境況なりき。日本軍の主権の全意義及日本文武官軍の活動の唯一の目的は斯の如きものなりき。不幸にして日支衝突會然て然るは滿洲には獨立運動全然存在せざりしとの假定を宣傳せるに依り張家の獨立宣言を日本文武官軍の活動に關するの外なかりき。

日本政府に於て既に其の意見書中に記述せる通り凡そ自衛権はウエ
ブスターの安着せる如く「手段の選擇及熟考の時間なき緊急且壓制的
なる必要」ある場合に付行使せらるべきものなり。斯る場合に於ても
自衛権は仲裁裁判官の判決又は司法裁判の判決又は理事会の報告發表
後三ヶ月を経過して初めて行使するを禁べしと規定せる規約第十二條
を遵守する要ありと爲すは自衛権其のものを否認するものなり。

五、報告書は滿洲國の獨立宣言が自衛的のものに非ざと爲せるも、右記
述は何等所なる調査に基き居らざるを以て報告書は再び調査委員會
報告第六次中の懸れる結論を採用せるものなること容易に推定せらる
右結論が正確を缺けるは日本政府意見書中に於て充分に明かにせられ
たり。總令が日本の強き不安にも拘らず對本委員會の右決定を斷固せ
るは公平なる觀察者をして客觀の念を抱かしむること必然なり、右に
對する理由の一部たるべき二原因あり、即ち第一に國家の政下に於
ては滿洲をして支那本部の首領に對峙せしめざる爲の運動は強制的に
して外辱に反響なかりしに依り報告書作者等は右運動の存在に對し懸

を存したるやも知れず、第二に報告書の作成者は日本の所謂「大陸政策」なる空説及右政策實行の一手致して滿洲問題の政治的解決を計らんとする日本の計畫なるものを宣傳したる爲惑はされたるもの如し。

然るに「日本の大陸政策」なるものが盟なる支那側の建設に係り、日本が世界の如何なる部分に對しても何等領土的野心を包蔵せざるは茲に再證するの要なし、右は日本の所乎たる否認を總論が拒否したる理由となるやも知れざるも右拒否の責任を免れしむるものに非ず。

事實は簡單にして疑々駁明せられたる如く、張家の下に在りたる全行政機關は皆自發的北方國體が自然に成立し、治安維持に任ぜる日本軍は必然的に之を協力せるものなり。右は公堂且必要にして當時の情勢に於ては避け難き接接なりき、日本軍の主権の全權及日本文武官の活動の唯一の目的は斯の如きものなりき、不審にして調査員會然て總論は滿洲には獨立運動全然存在せざりしとの假定を宣傳せるに依り張家の獨立宣言を日本文武官意の活動に關するの外なかりき、

而して何等の確證なくして斯る斷定を爲せり。

滿洲の住民が新國家に對し教育を有するの斷定に關しては調査委員
命が接受せる出所曖昧なる千五百通の書狀以外には何等有效なる證據
なし。日本政府は滿洲國が建國後一年ならざして秩序安寧の回復に關し
顯著にして健全なる進歩を遂げ且内外何れよりも其の施政に關し辨
明又は苦情を聞かざるの事實を茲に指摘せんが如し。

新國家滿洲國は同國に對する總會の願望に關係なく著々として發達
の道程を辿れり。張家の執政の統治より解放せられたる滿洲の滿、蒙
數三千萬住民は從來擧げられ來りし其の痛苦の收束を既に均しく享
受し得るに至れり。滿洲の大部分に於て暗黒は平定せられたるが。此
些少數分子は主として惡意良政の惡化よりなり且舊首領たる軍閥より
絶からざる援助を受け得るものにして、全滿洲の平和獨立の障礙を成
し來れり。

然れども日本及滿洲國軍の協力に依り幸にも始終は慈天、吉林、黑龍
江省より殆ど全部回復せられ、此等各省に於ける生命財産の復興は

直が建立せられたり。目下尙組織的反抗の聲を聞かれつつあるは熱河省のみなり。

財政方面に於ては滿洲國內に於て支那幣中上全く未嘗有の事無實現せられたり。同國は尙舊日宣制の時期に在るも健全なる豫算制度創設せられ且暫めて満足に實施せられつつあり。世界の先進國に於けると同等の方針に依り任務を遂行しつつある中央銀行の設立は同國財政の安定に經濟及企業の開發に寄與せること大なるものあり。同國の發達は鐵道、商業及工業方面に於ても認められ、加ふるに同國の豐富なる天興の資源を以てせば將來此等各方面に於て更に大なる發達を遂げ其の住民及外國人に利益を與へべき見込充分なり。

右に述べたる所は若し滿洲の住民が敵意を有し又は不平を抱へつつ之に照然せしに於ては實現せざりしなるべし。故に協會が日本の提出せる意見書に参考とすることなく、何時實際に根據を有せざる國本を委員會の決定を受け容れたるは遺憾なり。

六、報告書は守條の互建の爲國際協力の必要あることを述べ且國際協力

の一形式として技術上の援助の供與に言及し、支那再建は斯の如き表面的且不充分なる手段に依り成就し得べからざることは明白なり。右は強力なる國際干涉の方途に依り初めて可能なるべき處、斯の如き方法は支那の行政的保全及政治的獨立に兩する九國條約の規定に背に抵觸するに至るが如き性質のものなるべし、是即ち九國條約の適用に支那に對する限り九國條約の適用に當り状況の變化を當然考慮に入れ充分伸張性を與ふべき必要あることの一證據に過ぎず。

第三部 實行不可能なる通告

一、日本は一般國際關係に關する限り國際聯盟規約及巴黎條約が國際紛争處理の基準たるべきことを認むるものなり。然れども支那の如き特殊にして且全く變則なる事態に此等諸原則を適用するに當りては或る程度の特許性を與ふること必要なり。

二、報告書第四部第二節(一)の甲に述ぶる所の日本軍隊の撤收に付ては滿洲附屬地外に於ける日本軍隊の存在は何等法的原則を矛盾するものに非ずして、當初より全く合法的自衛の絕對的必要に基けること及

一般に是認せられたる國際紛争の處理に關する諸原則を決して毀損するものに非ざることには注意せらるべきなり。更に此等日本軍隊は今や日滿議定書に基き滿洲國內に於ける治安維持の任に當るべき責任を有すことも亦注意するを要す。日本は一九三一年九月三十日及十二月十日の決議に依り其の臣民の生命財産の安全が確保せらるるに従ひ其の軍隊を附屬地内に徵收すべき旨約束したるは事實なるも、右約定に附帶せる條件即ち生命財産の安全の保障なる條件は曾て満たされたることなし。加之右約束自體は滿洲國の獨立及去る九月十五日署名せられたる前記議定書の内容たる協定の締結に依り實行不可能となれり。若し報告書中の^セ古に従ひ日本軍隊が附屬地内に徵收することあらんか右徵收地域に於て不安混亂を誘致すべきこと必然なり。極東問題に直接の利害關係を殆ど有せざる聯盟諸國としては世界の此の部分に於ける平和維持よりは、寧ろ抽象的法則の擁護を以て一層重要なりと引續き主張し得べし。

然れども日本は滿洲の治安に重大なる關心を有するを以て該地域が

再び混亂に陥るが如きは到底忍ぶ能はず、リットン報告書の提案せるが如き憲兵隊制度が此の點に關する危惧を除くものとは思ふを得ず、滿洲の如き廣大なる領域の安寧が憲兵隊に依り保たれたる前例は世界歴史中に之を見ず、斯の如き荒唐無稽なる提案は之を實行すると不可能なり、若し日本軍隊徵收せば滿洲は直に匪賊及張學良軍の蹂躪する所となり無政府且混亂狀態を招來すべし。

三、滿洲の主權が支那に歸する旨を述べたる報告書第四部第二節（一）の（ハ乙）に付ては、滿洲が既に一九一六年以後は嘗て支那の權力に服せざりしこと及現在の紛糾は畢竟支那の權力が過去に於ても又現在に於ても實際に該地域に及べりとの假説に依り構成せられたるものなることに注意するを要す。右の如き擬制の強要に依り日本の權益の擁護及極東の平和の維持を確保し得られざるべきは何等贅言を俟たざる所なり。既に報告書が舊政權への復讐を以て混亂と軋轢を繰返すに至るものとして之を拋棄せる以上斯る擬制に復讐することも亦均しく排せらるべきなり。尙又日本は滿洲國が現存せる明瞭なる事實及日滿議

定書の規定と兩立せざるが如き方針は如何なるものと雖も之を容認すること不可能なり。

四、調査委員會報告書に記載せられ且報告書第四部第一節に引用せられたる十原則に關しては、帝國政府は以上述べたる意見の外は去る十一月聯盟に提出せる意見書中の一節、即ち「此等原則中日本政府に於て格別の反對なきものは既に日滿議定書に於て二三之が適用を見たり、支那問題に對し如何なる見地に立つも同國に於て無政府狀態の存續する限り第一乃至第九の原則殊に第四乃至第九に基き問題の満足なる解決に到達することの不可能なるは明かなるべし、蓋し右九原則は原則第十の示すが如く「支那に於て鞏固なる中央政府なくしては」實際に適用すること能はざるものなり」を引用するを以て足れりと思考するものなり。

五、報告書第四部第二節（三）に於て總會は一委員會を設置し、右委員會をして報告の定むる方式に依り兩當事國間に開かるべき交渉を援助せしめんと企圖し居れり。然れども右は滿洲問題に對し如何なる第三

者の介入も之を許さずと爲す日本の主張に直接相反するものにして、日本は斯の如き提案を受諾すること絶対に不可能なり。加之報告書第四部第二節の勸告(一)の(甲)及(乙)は實際に適合せざるものとして拒否せらるべく、且右第二節の勸告(二)も亦支那の現状に於ては同様適用不可能なるものを以て、右提案に係る委員會の活動の爲殘されたる餘地は全然之なきものの如し。

六、報告書は第四部第三節に於て、滿洲に於ける現政權の維持及承認は解決に非ず、且聯盟國は報告書の採擇後法律上に於ても又事實上に於ても現政權を承認することを差控ふべしとの趣旨を記述せり。更に又報告書は非聯盟國にして巴里條約及九國條約の署名國たるものは、右に關し報告書中に於て表示せられたる見解に同意せんことを希望し居り。日本政府は總會が一國家の承認又は非承認の問題に關し、聯盟國を動かし又は假令道義的にもせよ之を拘束するが如き様式の提案を爲すは、規約第十五條に依り聯盟に付與せられたる權能を逸脱するものなりと思惟せざるを得ず。何れにもせよ全世界の平和維持を第一任

務と爲す聯盟は、斯の如き提案を爲すことに依り滿洲國のみならず極東に於ける平和及安全の維持に何等寄與するを得ざりしものなり。聯盟の斯る行動は必ずや平和の依倚すべき基礎たる國家間の良好なる了解及友好關係に對する障害となるべし。

第四部 結 論

日本政府は一九三一年九月十八日夜及其後に於ける日本軍隊の行動は何れも自衛手段として妥當なるべき範圍を何等逸脱せざりしことなり。從て日本政府は滿洲に於ける其の軍隊の行動も、將又日滿議定書の締結も、國際聯盟規約、九國條約、巴里條約又は其の他の如何なる國際條約をも侵害せざるものと思考す。

日本政府は現政權の何れも其の全領域を支配したることなき支那の極めて異常なる事態に鑑み、又特に滿洲問題の類例なき複雜性及特異性に顧み、且又南京政府の政策の排外性を考慮に入れ、現紛争に對し

普通國際問題に適用し得べき一般方式を適用せんとするは不可能なると共に、斯る變則的事件に對し執らるることあるべき手續も、又其の結果到達せらるべき解決も、通常の國際紛争に對する先例とならざることを主張せんとするものなり。

假に普通的方式を適用すること可能なりとするも、總會の採擇せる不鮮明なる案は夫れ自體總會の所謂支那主權に對する干涉として排除せらるべきものなり。

不幸にして各聯盟國が現實に直面することを拒否し且報告書が無批判に容認したる結果、總會は空理的且不適當なる原則を徒に弄びたるのみなりき。總會は謂はば空虚なる方式を尊び日本は確乎たる現實を盾とせり、日本は既定の公理に基き總會は先入的假説を基礎とせり、其の由來する所は總會がリットン報告書以上に出づるを拒否せるに在り。本陳述書中に既に述べたるが如く滿洲國は迅速なる發達を遂げた、治安は匪賊に取て代り又商工業は改善せる事態に呼應して興隆し外國人及滿洲國住民に對し一様に利益を齎せり。右は滿洲國の承認及

激勵を以て滿洲問題の満足なる解決並に東洋に於ける恒久平和維持の唯一の方途なりとする日本の主張が何等誤り居らざるを示す具體的證據なり。

一方支那の状態は近き將來に於て改善の見込なきが如く支那は世界各國にとり痼疾的憂惧の對象として存続するものの如し。共產主義は既に支那に侵入せるが其驚異すべき侵入の程度及成果に付て殆ど理解せられ居らず。共產化せる支那は歐米諸國に對する重大問題にして之に比すれば他の諸問題は殆ど其意義を滅失すべし。然るに支那との關係を全然脱せる滿洲は極東に於ける共產主義の危險に對する障壁を爲すものにして其價值は各爲政者にとり正に明瞭なるべきものなり。聯盟が速に其態度を變改し空理的且適用不可能なる主義に依倚することをして、世界の各部分に於て平和維持を現實に可能ならしめつつある勢力を尊重且承認するに至ること希望に堪へざる所なり。聯盟規約自體も第二十一條に於て地方的了解を充分承認すべき旨を規定し居れるが滿洲に於ける日本の特殊權益は屢次承認せられたるものなるを以て、

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日滿議定書が斯の如き了解の範圍に屬することは疑の餘地なし。同時に日本は此機會に於て領土獲得又は商業的特權に關し何等異圖なきことを再言せんとするものなり。